

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL D. MILAM,

**Plaintiff,**

V.

Case No. C05-5842FDB

## PIERCE COUNTY *et al.*,

### Defendants.

**ORDER ACCEPTING  
PLAINTIFF'S ADDITIONAL  
FACTS AS A SUPPLEMENT TO  
THE AMENDED COMPLAINT  
AND DIRECTING PLAINTIFF  
TO PROVIDE SERVICE FORMS**

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff has applied for and received *in forma pauperis* status. (Dkt. # 7).

This action was first filed in late December of 2005. In January of 2006 plaintiff was granted *in forma pauperis* status. (Dkt. # 7). The original complaint is not a model of clarity and it appeared to the court plaintiff was attacking an ongoing criminal prosecution. Plaintiff complained of a warrant allegedly issued by the Pierce County Prosecutors Office. (Dkt. # 8). He did not explain what the warrant was for or how the warrant affected him. The court liberally construes a pro se pleading but cannot supply facts to a complaint. Pena v. Gardner, 976 F.2d 469 (9th Cir. 1992).

**ORDER**  
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1       The court entered an order to show cause. (Dkt. # 11). In response plaintiff filed an  
2 amended complaint. (Dkt. # 13). In the amended complaint plaintiff indicates he was offered some  
3 kind of settlement by Pierce County and again mentions a “warrant”. Plaintiff provided no details.  
4 The court could not determine if he has stated a claim and the complaint should be served, or if he  
5 was challenging an on going criminal prosecution. The court ordered plaintiff to file a second  
6 amended complaint. (Dkt. # 14).

7           Plaintiff then filed a document he titles “Fact Findings To Original Complaint.” (Dkt. # 19).  
8 Plaintiff explains that he is serving a 60 month sentence for crimes unrelated to this action. (Dkt. #  
9 19). He alleges he was initially sent to McNeil Island minimum camp restricted area. Plaintiff alleges  
10 he arrived at McNeil Island November 10<sup>th</sup>, 2004. Plaintiff claims two named individuals from the  
11 Pierce County Prosecutors Office, Colby Richards and Susan Lay, caused a felony detainer to be  
12 filed with the Washington State Department of Corrections for a fourth degree assault, domestic  
13 violence charge.

14           Plaintiff alleges that as a result of that detainer he lost his minimum status and was moved to  
15 another facility. He alleges that for 11 and ½ months he has suffered because of the more restrictive  
16 environment. Plaintiff alleges that fourth degree assault is a misdemeanor, and that a felony detainer  
17 should not have been filed.

18           At first glance the complaint fails to state a claim because it is well established that an inmate  
19 has no right to any particular level of custody or any particular prison. Olim v. Wakinekona, 461  
20 U.S. 238 (1983); Meachum v. Fano, 427 U.S. 215 (1976); Hewitt v. Helms, 459 U.S. 460 (1983).  
21 [However plaintiff has an arguable due process interest in having the correct information in his file.]

22           Between the amended complaint, (Dkt. # 13) and the additional facts alleged in plaintiff's  
23 “Fact Finding” document, (Dkt. # 19), the court has the information needed to serve a viable  
24 complaint against Richard Colby and Susan Lay.

25           The complaint in this action will consist of these two documents. The clerks office is  
26 directed to send Mr. Milam two United States Marshal Service forms. Plaintiff will need to fill out  
27 the forms, one for Richard Colby and one for Susan Lay, and return the forms to the court. The  
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1 court will then make service copies of the amended complain with the additional facts and order the  
2 Marshals service to attempt service by mail.

3 Plaintiff will have until **June 24<sup>th</sup>, 2006** to return the forms. Failure to return the forms  
4 properly filled out will result in a recommendation that this action be dismissed for failure to  
5 prosecute

6 The clerk is directed to send a copy of this order to plaintiff with the two forms, and to note  
7 the **June 24<sup>th</sup>, 2006** due date on the court's calendar.

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9 DATED this 30<sup>th</sup> day of May, 2006.

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/S/ J. Kelley Arnold

J. Kelley Arnold

United States Magistrate Judge

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